

ORDINANCE NO. 54

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF BONDS FOR THE PURPOSE OF AIDING IN THE CONSTRUCTION OF A MUNICIPAL WATERWORKS SYSTEM IN THE CITY OF CLINTON, ARKANSAS; LEVYING A TAX SUFFICIENT TO PAY THE PRINCIPAL AND INTEREST OF SAID BONDS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, by Ordinance No. 50, passed and approved October 29, 1952, there was submitted to the qualified electors of the City of Clinton, Arkansas, the question of whether the City should issue bonds to the amount of \$25,000 for the purpose of aiding in the construction of a municipal waterworks system, said bonds to bear interest, at a rate not to exceed 4% per annum; and

WHEREAS, due notice of the election was given as required by law and said election was duly held on December 8, 1952, at which election, 307 votes were cast for the issue of bonds and 3 votes were cast against the issue of bonds; and

WHEREAS, the result of the election was announced by the Mayor by a proclamation issued on December 9, 1952, and duly published in the Van Buren County Democrat, a newspaper having a bona fide circulation in said City, and more than 30 days have elapsed since then and no suit has been brought to challenge the result as so proclaimed, and the proclamation is now conclusive; and

WHEREAS, the City of Clinton at a public sale held at 11:00 a.m. February 27, 1953, in the City Hall, after more than 20 days' advertisement in said newspaper, contracted to sell the bonds to E. L. Villareal & Company of Little Rock, Arkansas, who submitted the best and highest bid for said bonds, being a price of 100c on the dollar face value plus accrued interest for 4% bonds; and

WHEREAS, the buyer of said bonds has elected to name The Commercial National Bank of Little Rock, Arkansas, as Trustee and paying agent, and has elected to convert the bonds to \$27,300 in 4% bonds

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maturing as hereinafter set out, and has presented computations showing the cost of maturing the bonds after conversion to be \$37.33 less than the cost of maturing the bonds according to the original schedule, which is within the terms of the sale notice; now, therefore,

BE IT ORDAINED by the City Council of the City of Clinton, Arkansas:

SECTION 1. That the sale of the bonds to E. L. Villareal & Company of Little Rock, Arkansas, and the conversion of the bonds to a lower interest rate, are hereby approved and confirmed.

SECTION 2. That the Mayor and City Recorder are hereby authorized and directed to execute the improvement bonds of this City, dated as of December 1, 1952, and maturing on January 1 of each year as follows:

YEAR	BOND NOS.	AMOUNT
1956	1	\$ 800
1957	2	800
1958	3	800
1959	4	800
1960	5	800
1961	6	800
1962	7	800
1963	8	900
1964	9	900
1965	10	900
1966	11	1000
1967	12	1000
1968	13	1000
1969	14	1000
1970	15	1000
1971	16	1000
1972	17	1000
1973	18	1000
1974	19	1000
1975	20	1000
1976	21	1000
1977	22	1000
1978	23 and 24	1250
1979	25 and 26	1250
1980	27 and 28	1250
1981	29 and 30	1250
1982	31	1000
1983	32	1000

The bonds shall be in the following denominations:

Nos. 1 to 7, inclusive	\$ 800
Nos. 8, 9 and 10.....	900
Nos. 11 to 23, inclusive..... and 25, 27, 29, and 31 and 32	1000
Nos. 24, 26, 28, and 30.....	250

(continued)

They shall bear interest at the following rates per annum, payable semi-annually: Nos. 1 to 10, inclusive, at 3%; Nos. 11 to 18, inclusive, at $3\frac{1}{4}\%$; and Nos. 19 to 32, inclusive, at $3\frac{1}{2}\%$; and shall be callable as hereinafter set out.

SECTION 3. Said bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF VAN BUREN
CITY OF CLINTON

No. _____

\$ _____

KNOW ALL MEN BY THESE PRESENTS:

That the City of Clinton, in the County of Van Buren, State of Arkansas, acknowledges itself to owe and, for value received, promises to pay to bearer the sum of _____ DOLLARS in lawful money of the United States of America on the first day of January 19--, with interest thereon from date hereof at the rate of _____ per centum (___%) per annum until paid, interest payable semi-annually on the first day of January and July of each year, commencing July 1, 1953, on presentation and surrender of the annexed coupons as they severally mature. Both the principal and interest of this bond are hereby made payable at the office of The Commercial National Bank of Little Rock, Arkansas.

This is one of a series of bonds aggregating Twenty-seven Thousand Three Hundred Dollars (\$27,300), all of like tenor and effect except as to number, denomination, interest rate, and maturity, numbered from one (1) to Thirty-two (32), inclusive, issued for the purpose of aiding in the construction of a municipal waterworks system in the City, and the City hereby warrants and covenants that in the issuing of this bond it has preceeded in accordance with the provisions of Amendment No. 13 to the Constitution of the State of Arkansas, and in accordance with the laws of said State, under ordinances of the City Council of said City and in pursuance of an election duly held at which the majority of the legal voters of said City voting on the question

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voted in favor of the issue of said bonds; that all conditions, acts and things required to exist, to be performed, and to happen precedent to and in the issuance of this bond have existed, have been performed and have happened in due time, form and manner as required by law and particularly by said Amendment No. 13; and that a tax sufficient to pay the bonds aforesaid has been levied in accordance with said constitutional amendment and made payable annually until all of said bonds and interest thereon have been fully paid and discharged; and that the indebtedness represented by this bond and the issue of which it forms a part does not exceed any constitutional or statutory limitation. For the prompt payment of this bond and the interest thereon, the said City of Clinton hereby pledges its full faith, credit and taxing power, including the ten mill special tax authorized to be levied by said Amendment to the Constitution for the payment of this bond and other bonds of this series.

The City has agreed that out of the revenue derived from the special tax which it has levied and which is authorized by Amendment No. 13 to the Constitution of the State of Arkansas, it will first set up a reserve of Fifteen Hundred Dollars (\$1500), and that any surplus after that reserve has been set up must be used to call the bonds of this issue for payment prior to maturity in inverse numerical order at par and accrued interest on any interest paying date.

The bonds of this issue are callable for payment prior to maturity in inverse numerical order at par and accrued interest from surplus collections from the tax, on any interest paying date, and from funds from any source, on any interest paying date on and after January 1, 1958. In the event the City shall call bonds for payment prior to maturity, it shall publish notice of such call once a week for two weeks in some newspaper of general circulation throughout the State of Arkansas, the first publication to be not less than fifteen days prior to the date fixed for redemption,

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and the notice shall give the number and maturity of each bond being called. All bonds so called shall cease to bear interest after the date fixed for their redemption, provided the funds for their payment are on deposit with the paying agent at that time.

This bond shall not be valid until authenticated by the certificate hereon of The Commercial National Bank of Little Rock, Arkansas.

IN WITNESS WHEREOF, the City of Clinton, Arkansas, has executed this bond by the hands of its Mayor and City Recorder and attested it with its corporate seal, and has caused the coupons hereto attached to be authenticated by the facsimile signature of its Mayor, as of the 1st day of December, 1952.

CITY OF CLINTON, ARKANSAS

BY

MAYOR

(Seal)

Attest: _____ CITY RECORDER

To each of said bonds shall be attached coupons for the semi-annual interest in the following form:

COUPON

No. _____

\$ _____

On the first day of January -- July, 19__, unless the bond to which this coupon is attached is paid prior thereto, the City of Clinton, Arkansas, promises to pay to bearer _____ DOLLARS in lawful money of the United States of America, at the office of The Commercial National Bank of Little Rock, Arkansas, being six months' interest then due on its improvement bond dated December 1, 1952, and numbered _____.

CITY OF CLINTON, ARKANSAS

By

MAYOR

(The first coupon shall be for seven month's interest. The signature of the Mayor on the coupon may be lithographed or engraved.)

Each bond shall be authenticated by the The Commercial National Bank of Little Rock, Arkansas, as follows:

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TRUSTEE'S CERTIFICATE

This is to certify that this is one of the series of 32 improvement bonds aggregating \$27,300 described herein.

THE COMMERCIAL NATIONAL BANK OF LITTLE ROCK, ARKANSAS, TRUSTEE

By _____
VICE PRESIDENT & SECRETARY

Little Rock, Arkansas

SECTION 4. The Mayor and City Recorder are hereby authorized and directed, when they have executed said bonds and have had them duly certified, to deliver them to the purchaser upon receipt of the full purchase price, and the proceeds of said bonds shall be used for no purpose except the purposes for which voted.

SECTION 5. In order to pay the said bonds as they mature, with interest thereon, a five mill tax being insufficient to pay interest on and retire the proposed bonds, there was levied by Ordinance No. 52, passed and approved December 19, 1952, upon all taxable real and personal property within Clinton, Arkansas, a tax of ten mills on each dollar of assessed valuation, beginning with the taxes collected in the year 1953 and continuing as long thereafter as may be necessary in order to pay the bonds and interest authorized by this ordinance, being a sum sufficient to meet said bonds and interest as they mature, with five per cent added for unforeseen contingencies; and the City Recorder was directed to transmit a copy of said ordinance to the County Clerk of Van Buren County, Arkansas, to the end that said tax may be extended on the tax books of said county and collected annually along with the other taxes until said bonds and interest thereon are paid in full. The levy of said tax is hereby approved and affirmed, subject to the provision that in the event surplus revenues from the waterworks system are available to pay the principal and interest of these bonds, either in whole or in part, the levy may be proportionately reduced. The City agrees that all of the revenues from the ten mill tax shall be put in a separate fund known as the

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"Bond and Interest Fund" and shall be used solely for the payment of the bonds and interest of this issue, as set out in this ordinance. Any surplus from year to year shall be kept and accumulated until the City has on hand a surplus of \$1500 over and above the annual principal and interest requirements of this issue. Any revenues over and above this \$1500 surplus must be used to call the bonds of this issue for payment prior to maturity in inverse numerical order, except that the City will not be required to call bonds for partial payment.

SECTION 6. In order to pay said bonds, with interest thereon, as they mature, there are hereby appropriated out of the proceeds of the tax hereinabove described, and if such proceeds be not sufficient, then out of the general revenues of the City, the sums necessary to meet payments of principal and interest as they mature and the paying agent's charges.

SECTION 7. The Treasurer of the City of Clinton is hereby ordered and directed to remit to the paying agent, not less than five days before the date of each interest payment, the amount of interest, or principal and interest, due on said date, together with the paying charges, which shall be $\frac{1}{8}$ of 1% on principal and $\frac{1}{4}$ of 1% on interest, with the provision that the minimum paying charge shall be \$1.00. This instruction to the Treasurer is irrevocable and may be enforced by mandamus.

SECTION 8. The City agrees to deposit the proceeds of the sale as follows: The accrued interest shall be paid into the Bond and Interest Fund, as hereinabove defined, and the balance received from the sale of the bonds shall be deposited in a separate fund to be known as the "Construction Fund," to be used solely for the payment of the cost of construction plus the expenses of the bond issue, except that the City agrees to set aside sufficient funds from the Construction Fund to meet interest requirements until tax revenues become available, but as soon as possible this money shall be repaid to the Construction Fund.

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The City agrees to require from the depository bank in which the Construction Fund is placed, security for all of the deposit over \$10,000 insured by the Federal Deposit Insurance Corporation, and such security shall be either in the form of a corporate surety bond or in the form of government bonds escrowed with some other bank, with the right in the depository to withdraw bonds from the escrow as the Construction Fund is withdrawn by the City.

SECTION 9. Both the Bond and Interest Fund and the Construction Fund shall be deposited in a bank or banks holding membership in the Federal Deposit Insurance Corporation. Vouchers upon either fund must be signed by two duly authorized persons.

SECTION 10. If default is made and continues for thirty days in the payment of any interest coupon, the holder of the bond to which it is attached may declare the same immediately due and payable, and the failure of the holder to exercise this option upon any default shall not be a waiver of his right to exercise the option upon any subsequent default.

SECTION 11. The bonds of this issue shall be callable for payment prior to maturity according to the terms set out in the face thereof.

SECTION 12. The Commercial National Bank of Little Rock, Arkansas, is designated as Trustee, authorized to act for and on behalf of the bondholders, but it shall be responsible only for wilful wrong in the execution of its trust, and the recitals of fact contained herein and in the bonds themselves (except the recitals in the Trustee's Certificate) are statements made by the City and not by the Trustee. The Trustee shall not be required to take action of any default or to take any action hereunder until it shall have been notified in writing of said default and indemnified to its satisfaction against any loss, expense or cost that it may incur by taking action. The holders of a majority in value of the outstanding bonds at any time may by an instrument duly executed and recorded in the office of the City Recorder, appoint a new Trustee, who shall have all of the powers of the

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Trustee originally named, and the Trustee herein named may resign at any time upon ten days' notice in writing mailed to the City Recorder.

SECTION 13. The terms of this ordinance shall constitute a contract between the City of Clinton and the holders of the bonds herein authorized and no variation or change in the undertakings herein set out shall be made while any of these bonds are outstanding, without the written consent of the holders of all bonds then outstanding, and the holder of any bond may at any time, for and on his own behalf, or the Trustee may, for and on behalf of all the bondholders, enforce the obligations of the City by a proper suit for that purpose.

SECTION 14. The provisions of this ordinance are separable, and in the event that any section or part of a section shall be held to be invalid, such invalidity shall not affect the remainder of the ordinance.

SECTION 15. It is hereby ascertained and declared that there is an immediate and urgent need for the construction of a water-works system for the City of Clinton, in order to protect the health, life, and property of the City's inhabitants, and that therefore an emergency exists and this ordinance is necessary for the preservation of the public peace, health and safety, and shall be in force and take effect immediately upon and after its passage.

Passed: March 23rd, 1953.

Approved: EARL B. RIDDICK, Mayor.

Attest: WINFREY SMITH, City Recorder.

CERTIFICATE

I, the undersigned, City Recorder of Clinton, Arkansas, hereby certify the foregoing to be a true copy of an ordinance duly passed by the City Council at a duly called and constituted meeting at which more than two-thirds of the total number of members-elect of the Council were present and voted for said ordinance, which is now of record in Ordinance Book No. _____, page _____, of the records of said City.

CERTIFIED under my hand and the seal of said City, this 23rd day of March, 1953.

WINFREY SMITH